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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/798,784	03/12/2004	Lars Tenerz	030481-0216	5614
22428	7590	10/05/2006	EXAMINER	
FOLEY AND LARDNER LLP SUITE 500 3000 K STREET NW WASHINGTON, DC 20007			NATNITHITHADHA, NAVIN	
			ART UNIT	PAPER NUMBER
			3735	

DATE MAILED: 10/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/798,784	TENERZ ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Navin Natnithithadha	3735	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12 September 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-10 and 12-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 and 12-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Response to Amendment***

1. Claims 1, 12, and 13 have been amended. Claim 11 has been cancelled.  
Claims 1-10 and 12-18 are pending.

### ***Continued Examination Under 37 CFR 1.114***

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 03 august 2006 has been entered.

### ***Response to Arguments***

3. Applicant's arguments with respect to claims 1-10, and 12-18 have been considered but are moot in view of the new ground(s) of rejection.

### ***Examiner's Comment***

4. The Examiner proposes the following amendment to clearly define the structure of apparatus claim 1:

Art Unit: 3735

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1. (Currently amended) A system to sense the location of a distal portion of a member within a body, the system comprising:

an introducer portion ~~having~~ including:

a lumen adapted to introduce an instrument there-through, and

a distal end adapted to be placed within a body, the distal end having an opening lying in a plane perpendicular to a longitudinal axis of the lumen and a proximal end having an opening lying in a plane perpendicular to the longitudinal axis of the lumen; ~~and~~

a pressure sensor, in fluid communication via the lumen with the opening at the distal end, adapted to provide a pulsation which can be sensed by an operator when the distal end is placed within a pulsating portion of the body; ~~wherein the system further comprises and~~

a core pin with a channel to provide said fluid communication.

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12. (Currently amended) A system to sense the location of a distal portion of a member within a body, the system comprising:

an introducer portion ~~having~~ including:

a lumen adapted to introduce an instrument there-through, and

a distal end adapted to be placed within a body, the distal end having an opening lying in a plane perpendicular to a longitudinal axis of the lumen and a

proximal end having an opening lying in a plane perpendicular to the longitudinal axis of the lumen, and

a side hole near the distal end of the introducer portion; and

a pressure sensor, in fluid communication via the lumen with the opening at the distal end, adapted to provide a pulsation which can be sensed by an operator when the distal end is placed within a pulsating portion of the body;

~~wherein the introducer portion further comprises a side hole near the distal end of the introducer portion.~~

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These proposed amendments are not an indication of allowability of the claims.

### ***Claim Rejections - 35 USC § 102***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

5. Claims 1, 2, 5, 7, 10, and 12-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Davis et al, US 6,179,827 B1 ("Davis").

Claims 1, 2, 5, 7, 10, and 12-18: Davis teaches a system (see fig. 2 and 3), comprising: an introducer portion (thin wall sleeve) 40 having: a lumen 22, a distal end 44, the distal end 44 having an opening 46 and is adapted to be positionable within a blood vessel (artery), a proximal end 58 having an opening 74, and a side hole 42 near the distal end 44; a pressure sensor/transducer 76, which inherently has a visual

display; a core pin (catheter body) 24 with a channel 28 to provide fluid communication and an opening/entrance 20; and at least two chambers 64, 70, 74, 78.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 3, 4, 6, 8, and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Davis, as applied to claim 1 above, and further in view of over Marin et al, US 5,456,694 A ("Marin").

Claims 3, 4, 6, 8, and 9: Davis does not teach the subject matter of claims 3, 4, 6, 8, and 9. However, the structure described by these claims is a pressure gauge, which is well-known in the art. For example, Marin teaches a system (see fig. 1A and 1B),

comprising: a chambers (sheath pressurization port) 26, which is a capillary tube; and a pressure manometer 29, wherein the pressure manometer visually displays pressure in a chamber (needle and gauge enclosed in a glass window) not vented to the atmosphere and has a needle that vibrates due to pulsation. Therefore, it would have been obvious for one of ordinary skill in the art at the time the invention was made to modify Davis' pressure sensor 76 with a Marin's pressure manometer/gauge because both pressure measurement devices are alternative design choices that are well-known in the art for accomplishing the same task.

### ***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

US 6,592,547 B2, US 6,589,206 B1, US 6,350,252 B2, US 6,159,178 A, US 5,814,016 A, US 5,795,325 A, US 5,766,151 A, US 5,395,330 A, and US 5,290,231 A additionally teaches the subject matter of the Applicant's claims. The Examiner suggests reviewing these patents before responding to the present Office Action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Navin Natnithithadha whose telephone number is (571) 272-4732. The examiner can normally be reached on Monday-Friday, 8:00-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Marmor, II can be reached on (571) 272-4730. The fax phone

Art Unit: 3735

number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Navin Natnithithadha  
Patent Examiner – GAU 3735  
29 September 2006